

LOWER PAXTON TOWNSHIP ZONING HEARING BOARD

Meeting of June 28, 2012

Members Present

Richard Freeburn
Jeffrey Staub
Sara Jane Cate
Gregory Sirb
David Dowling
Jeffrey Staub

Also in Attendance

James Turner
Dianne Moran

Docket 1313

Applicant: Jim and Cheryl Goldman
Doug Pyfer- PA Remodelers

Address: 5601 Ridgeview Drive
Harrisburg, PA 17112

Property: 5601 Ridgeview Drive
Harrisburg, PA 17112

Interpretation: Article 307.A: Dimensional requirements in the R-2 Medium
Density Residential District – Front Yard Setback: The minimum
front yard setback shall be 25 feet.
Applicant proposes to construct a carport and a storage shed to be
located within the front yard setback.

Grounds: Article 307.A of the Lower Paxton Township Zoning Ordinance
pertains to this application.

Fees Paid: May 16, 2012

Property Posted: June 19, 2012

Advertisement: Appeared in The Paxton Herald on June 13 & 20, 2012.

The hearing began at 9:13 p.m.

Mr. Freeburn sworn in Mrs. Cheryl Goldman, 5601 Ridgeview Drive, who explained that she is the property owner; and Doug Pyfer - PA Remodelers 911 Bradford Road, Harrisburg, Pennsylvania, 17110. It was noted that Ms. Moran was under oath from the previous testimony.

Mr. Freeburn noted that it was customary to enter the application and site plans as Township exhibits, and questioned the applicant if he had any objections. Mr. Pyfer answered that he did not.

Ms. Moran advised that the appropriate fees were paid on May 16, 2012. The proper advertisements appeared in The Paxton Herald on June 13, and 20, 2012. The hearing notices were posed on June 19, 2012.

Ms. Moran advised that Article 307.A: Dimensional requirements in the R-2 Medium Density Residential District – Front Yard Setback: The minimum front yard setback shall be 25 feet and the applicant is proposing to construct a carport and storage shed to be located in within the front yard setback.

Mr. Freeburn requested the applicant to proceed and explain what she proposes to do and why the applicant should be granted the variance.

Mr. Doug Pyfer explained that he was contacted by the applicant to build a carport and a shed. He noted that the present driveway is deteriorating and they would like to replace the driveway, the shed is deteriorating, and they would like to get a new shed. He noted that they would also like to be able to park both cars out of the weather, so he is asking for a minimal encroachment on the setback to build 22 feet. He noted that he is okay with the setback for Ridgeview Drive, but being that this is a corner property; the carport would encroach on the setback for Lincoln Street. He noted that there is a covered walkway that extends along the back of the carport that attaches to the shed that they would like to have a place to pull their cars in, staying out of the weather, to enter into their house.

Mr. Freeburn questioned if Mr. Pyfer plans to increase the footprint of the existing driveway. Mr. Pyfer answered no, there would be no additional impervious area as it would stay where it is now. Mr. Freeburn noted that Mr. Pyfer plans to put a carport over top of the existing driveway and build a shed to the back of it. Mr. Pyfer noted that the shed that is there now will be torn down and a new shed put in its place of about the same size to line up with the carport.

Mr. Freeburn questioned what kind of roof is proposed for this construction. Mr. Pyfer answered it will be a reverse gable over the carport and the shed roof will extend off the back of that gable to cover the walkway and the shed. He noted that the back part of the roof would become part of the shed. Mr. Freeburn questioned if it would be consistent with the angle of the roof that is currently on the house. Mr. Pyfer noted that it would drop down about six inches from what the house is.

Mr. Freeburn questioned what type of siding would be used on the side of the roof. Mr. Pyfer answered that it would be vinyl siding.

Mr. Dowling questioned what the encroachment into the setback is. Mr. Pyfer answered in the front he has 36 feet, needing 45 feet, so in the front of the carport towards Ridgeview he is at 36 feet, but at the very back of the shed, it is 44 feet. Mr. Dowling questioned if the 45 feet was taken to the middle of the road. Mr. Pyfer answered yes. Ms. Moran noted that there is a 40

foot right of way for Lincoln Street, and 25 foot for the front yard, so the total is 45 foot. Mr. Turner questioned if the right of way is 50 foot for the front yard on Ridgeview. Ms. Moran answered yes.

Mr. Sirb questioned if this property has two front yards. Ms. Moran answered that it does.

Mr. Sirb noted that the carport encroaches on the front side yard. Ms. Goldman noted that she never realized that she had two front yards for her property.

Mrs. Cate questioned Mr. Goldman if there are other houses that have similar situations in your community. Ms. Goldman answered that there are houses on her block, the only difference with her proposal, noting that other three houses have carports, is that you have to go out the back door, down steps, out in the weather to enter their carport. She explained that her main purpose in building a carport is not to protect her car, but to protect her and her husband. She explained that her husband has had a concussion from falling on the ice in her driveway, and she has fallen many times and torn her knee. She noted that it is totally for health reasons that she is trying to do this not to protect her eight or ten year old car.

Mr. Freeburn questioned where Mrs. Mayer, who signed the petition, lives. Mrs. Goldman answered that she lives behind her house on Lincoln Street. Mr. Freeburn questioned where Marie Suchy lives. Mrs. Goldman answered that she lives cattycorner to her on Ridgeview Drive. Mr. Freeburn questioned where Jean Hosteller lives. Mrs. Goldman answered that she lives beside her on Ridgeview Drive. Mr. Freeburn questioned if all the affected property owners have no objection to the variance. Mrs. Goldman answered, apparently not.

Mr. Freeburn questioned if anyone in the audience wished to be heard on this matter. He noted hearing no response from the audience and fellow Board members, the Board had 45 days to render a decision on this variance.

Ms. Cate made a motion to grant the request for the variance. Mr. Sirb seconded the motion. Mr. Turner called for a roll-call vote: Mr. Staub, aye; Mr. Dowling, aye; Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Freeburn, aye. Mr. Turner noted that the motion carried.

The hearing ended at 9:20 p.m.

Submitted by:



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
DOUG PYFER, PA REMODELERS: DOCKET NO. 1313
for JIM & CHERYL GOLDMAN :

DECISION GRANTING VARIANCE

The applicant seeks a variance from front yard setback requirements in connection with a proposed carport and storage shed. A hearing on the application was held on June 28, 2012.

Facts

1. The applicant is Doug Pyfer, d/b/a PA Remodelers. The application was submitted on behalf of the property owners, Jim and Cheryl Goldman of 5601 Ridgeview Drive, Harrisburg, Pennsylvania 17112, the property owners.

2. The property in question is located at the southeast corner of Ridgeview Drive and Lincoln Street and consists of a roughly rectangular lot. The property is improved with a single family dwelling known as 5601 Ridgeview Drive. The property is accessed by a driveway located on the west side of the lot.

3. The applicant proposes to erect an attached carport and shed over the existing driveway. The carport would be setback further from Ridgeview Drive than the existing home. A setback of 36 feet to the center of Lincoln Street is proposed. No additional impervious coverage will be created by the improvements.

4. The applicant has discussed his proposal with the neighboring property owners who all approved the addition.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicant and property owners appeared to testify before the Board.

Conclusions

1. Section 307(A) of the ordinance requires a minimum front yard setback of twenty five (25) feet to the right of way line. Because the side yard has public road frontage on Lincoln Street it is considered to be a front yard and the proposed construction would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship not created by the owner consisting of the limited lot width. When combined with the corner location requiring two front yards the lot area available for development is extremely limited.

4. Granting the variance will not alter the essential character of the neighborhood nor harm the public welfare. Similar setbacks to that proposed by the applicant are common throughout the neighborhood. The proposed improvement is in keeping with the scale of the existing improvements on the lot and with the pattern of development in the area.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of a carport with setback of 36 feet to the center line of Lincoln Street. In all other respects construction shall be in strict accord with the plans and testimony submitted to the Board.

Date: 7/26/12

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn

SJ Cate

Sara Jane Cate

Gregory R. Sirb

David B. Dowling

David B. Dowling

Jeffrey W. Staub

LOWER PAXTON TOWNSHIP ZONING HEARING BOARD

Meeting of June 28, 2012

Members Present

Richard Freeburn
Jeffrey Staub - Recuse
Sara Jane Cate - Recuse
Gregory Sirb
David Dowling
Jeffrey Staub
Watson Fisher

Also in Attendance

James Turner
Dianne Moran

Docket 1314

Applicant: Dale A. Auer

Address: 7447 Moyer Road
Harrisburg, PA 17112

Property: 4100 Jonestown Road
Harrisburg, PA 17109

Interpretation: Article 307.A: Dimensional requirements in the Commercial General Zoning District. Rear Yard Setback: The minimum rear yard setback shall be 30 feet. Applicant proposes an addition that will extend into the rear yard setback
Article 307.A: Impervious Coverage; maximum impervious coverage percent is 75% Applicant proposes addition that will exceed the allowable impervious coverage for the lot.
Article 6.1: Off street parking requirements. Funeral Home Parking Requirement number of required off street parking spaces required. One per five seats in rooms intended to be in use at one time for visitors, counting both permanent and temporary seating plus one off-street parking space for each employee.
Article 602.E: Location of Parking. Required off-street parking spaces shall be on the same lot or abutting lot with the principal use served, unless the applicant proves to the satisfaction of the Zoning Hearing Board that a method of providing the space is guaranteed to be available during all of the years the use is in operation with 300 feet waling distance from the entrance of the principal use being serviced. Such distance may be increased to 500 feet for employee parking of a non-residential use. A written and signed lease shall be provided, if applicable. The applicant seeks a parking variance in conjunction with the number and location of parking spaces.

Grounds: Article 307.A of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: May 25, 2012

Property Posted: June 19, 2012

Advertisement: Appeared in The Paxton Herald on June 13 & 20, 2012.

The hearing began at 7:25 p.m.

Ms. Cate noted that due to her relationship with the applicant and her family, she wished to recuse herself from the hearing. Mr. Freeburn noted that the chair recognized that Ms. Cate shall be recused from hearing this application.

Mr. Staub had previously stated that he would recuse himself from this hearing as he had a past relationship with the applicant.

Attorney Jordan Cunningham noted that he represents Mr. Auer in this matter and that he has two witnesses to present to the Board. He introduced Massino Rizzoeto of Thomas J. Carricato and Sons who has been involved with this plan and has worked with the Township before. He noted that the second witness, Charles Easher, is an associate with the Dale Auer Funeral Home.

Mr. Cunningham explained that the hearing involves a property that is bordered by Madison Street to the west, Walnut Street to the north, Interstate 83 to the east, and Jonestown Road to the south. He noted that the property is bounded by roads and is narrow in nature. He noted Mr. Auer would like to develop the carport that is currently in place on the west side of the building into an enclosed chapel. He noted that he would need to extend the existing roof line between four to seven feet which would be an encroachment to the rear setback line from the Interstate interchange. He noted that the area falls within the 30-foot setback and there are no additional parking spaces to be added or any changes to the configuration of the parking lot. He noted that the existing lot does encroach into the side front setback line and has been for years. He noted that the current parking is 77% impervious versus the 75% allowed by ordinance.

The following were sworn in: Charles Easher, 401 Freeman Drive, Johnstown, Pennsylvania with a work address of 4100 Jonestown Road. Mr. Massino Rizzoeto, Director of Construction for Thomas J. Carricato and Sons. It was noted that Ms. Moran was under oath from the previous testimony.

Mr. Freeburn noted that it was customary to enter the application and site plans as Township exhibits, and questioned the applicant if he had any objections. Mr. Cunningham answered that he did not.

Ms. Dianne Moran, Planning and Zoning Officer for Lower Paxton Township advised that the appropriate fees were paid on May 25, 2012. The proper advertisements appeared in The Paxton Herald on June 13 & 20, 2012. The hearing notices were posted on June 19, 2012.

Ms. Moran noted that Article 307.A: Dimensional requirements in the Commercial General Zoning District. Rear Yard Setback: The minimum rear yard setback shall be 30 feet. She noted that the applicant proposes an addition that will extend into the rear yard setback.

Article 307.A: Impervious Coverage; maximum impervious coverage percent is 75% Applicant proposes an addition that will exceed the allowable impervious coverage for the lot.

Article 6.1: Off street parking requirements. Funeral Home Parking Requirement number of required off street parking spaces required. One per five seats in rooms intended to be in use at one time for visitors, counting both permanent and temporary seating plus one off-street parking space for each employee.

Article 602.E: Location of Parking. Required off-street parking spaces shall be on the same lot or abutting lot with the principal use served, unless the applicant proves to the satisfaction of the Zoning Hearing Board that a method of providing the space is guaranteed to be available during all of the years the use is in operation with 300 feet waling distance from the entrance of the principal use being serviced. Such distance may be increased to 500 feet for employee parking of a non-residential use. A written and signed lease shall be provided, if applicable. The applicant seeks a parking variance in conjunction with the number and location of parking spaces.

Mr. Freeburn questioned if Mr. Easher and Mr. Rizzoeto agreed with what Attorney Cunningham stated in his opening statements. Mr. Easher and Mr. Rizzoeto answered yes. Mr. Freeburn questioned if there was additional testimony that Mr. Easher or Mr. Rizzoeto wanted to add. Mr. Rizzoeto noted that this plan is what the builder has designed, and he explained that the owner wanted to enclose the existing carport to make a nice update area inside of the funeral home. He noted that he plans to do some additional trim work on the outside to include the roofline.

Mr. Freeburn noted that the plan shows a very attractive addition. He noted that it is not intended to add additional seating, noting that currently the funeral home has seating for 60 with additional 20 temporary seats. Mr. Cunningham answered that statement was correct.

Mr. Freeburn noted that there are nine employees. Mr. Easher answered that it varies from time to time. He noted that he has 12 employees at most in the building at one time and several additional ones that serve as couriers who make transfers; however, they are not in the building all day long. Mr. Cunningham questioned how many people are present on a daily basis, noting that the application states between nine and ten who are using the parking lot. Mr. Easher answered that is the correct amount. Mr. Cunningham noted that Mr. Easher was referring to the couriers who go out on calls to pick up the deceased. Mr. Freeburn noted if you have 80 seats and you need one parking space for five seats, you would need 16 parking spaces for those 80 seats, and the nine employees would bring the total up to 25 parking spaces. He suggested that there are 25 parking spaces on the plan. Mr. Cunningham answered that was correct plus one handicap parking space.

Mr. Freeburn questioned if this applicant needs a variance for parking. Ms. Moran answered no. She explained that everything was advertised as they have another lot that they use for additional employee parking. She noted that she wanted to make sure that everything was covered. She noted that the Township wanted to ensure that they had plenty of parking which they do. She noted that the ordinance reads that the additional lot that they use should abut the property and it does not as it is across the street. Mr. Cunningham noted that it is across Walnut Street, noting that it is a residential area. He noted that the idea would be to have the employee's park at that location.

Mr. Sirb questioned Ms. Moran if the plan is over the allowed amount for impervious coverage. Ms. Moran answered yes. Mr. Sirb questioned if they are already encroaching for the existing parking. Ms. Moran answered yes. Mr. Sirb noted that the encroachment is located in the I-83 south ramp. Ms. Moran answered yes. Mr. Sirb noted that he was in favor of the additional employee parking but there are events during funerals when the parking is crowded, and the business is located near a very crowded intersection where cars are flying by. He noted if Mr. Auer wants to enclose the addition, it would make the business more attractive; however, it may increase the number of people attending funeral services. He suggested that it is within the Zoning Hearing Board's right's to demand that the additional parking be used. Mr. Freeburn suggested that it should be dedicated to employee parking, noting that there is dedicated employee parking and there maybe times when it may not need to be used for that purpose. Mr. Cunningham noted that it is in the narrative attached to the application, indicating that Mr. Auer is in agreement if that is the Zoning Hearing Board's requirement.

Mr. Sirb noted if you remove the dedicated parking spaces, would the plan still make the required parking spaces. He noted that parking would depend on the number of people attending the service. Mr. Sirb noted for this use, unlike a restaurant, the seats are not hardened in the establishment. He noted that they can use folding chairs. He questioned Ms. Moran how you determine how many seats are used to determine the parking requirement. Ms. Moran answered that the ordinance states that the largest room for both temporary and permanent seating provided, the parking requirement is one per five seats. She noted that she agreed that it is a good idea to provide the dedicated parking spaces for the employees, and not to have to worry about cars parking on the street. Mr. Sirb noted that there is no good street to cross other than Walnut Street.

Mr. Turner questioned if the extra parking lot is owned by the same individual that owns the funeral home. Mr. Cunningham answered that Mr. Auer owns it.

Mr. Sirb noted that the only variance not addressed is the rear yard set back. Mr. Freeburn noted that a corner of the addition encroaches into that. Mr. Cunningham noted that the building encroaches now, however, the extension of the roof line would provide for greater encroachment. He noted that his client wanted to provide some other type of area other than a secular area in the establishment for his clients, a more private area to use as a chapel to provide some distance from the casket and the people who are present. Mr. Freeburn noted that it is a very minimum variance request.

Mr. Freeburn questioned if anyone in the audience wished to be heard on this application. He noted that hearing no further testimony and no further questions from the Board and the audience, the Board now has 45 days to render a decision on Docket #1314.

Mr. Sirb made a motion to approve Docket #1314. Mr. Dowling seconded the motion. Mr. Turner called for a roll call vote: Mr. Fisher, aye; Mr. Dowling, aye; Mr. Sirb, aye; and Mr. Freeburn, aye.

Mr. Freeburn questioned if there was any concern about the employee parking. Mr. Sirb noted that since it was in the written testimony, it would be covered. Mr. Freeburn suggested that it was left that they could do that if the Zoning Hearing Board wanted them to do it. He stated that he would like the applicant to use the designated parking lot for the employees to park in. Mr. Sirb noted that he would accept that amendment to his motion. Mr. Freeburn questioned if there is a second to the amendment to the motion. Mr. Dowling noted that he would second the amendment.

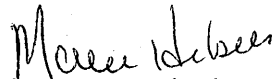
Mr. Freeburn questioned if the applicant had any objection to the amendment. Mr. Cunningham noted that he needs direction for the number of spaces you may be thinking. He noted that the most employees at any given time of the day that would be parking at the time of the funeral is nine. He noted that those would be the individuals that would need to use that parking area. He noted that the application indicated that for the past 45 or 50 years that it is rare that he get funerals with more than 60 people, noting that Mr. Easher could testify to that as he has worked there for over 15 years.

Mr. Freeburn questioned Mr. Cunningham if he would have any objection to including in the motion the provision that Mr. Auer dedicate up to nine spaces for employee parking during times of need due to the number of people attending a funeral. Mr. Cunningham noted that the area in question could accommodate eight employees for parking but they would be double parked, four cars behind four cars. Mr. Freeburn questioned how many employees could be accommodated without double parking. Mr. Easher answered four cars, with another four behind those cars. Mr. Sirb noted that the applicant meets the definition of the ordinance but he has a concern in that building the chapel will increase their business, which would increase the amount of people attending a funeral service. He noted that he would be happy with the requirement for four employee parking spaces. Mr. Freeburn explained that the Zoning Hearing Board wants to avoid having people park on the street beside the funeral home and having a dangerous situation. Mr. Cunningham noted that he doesn't want to say that he will dedicate eight parking spaces when there are only four parking spaces. Mr. Freeburn questioned if Mr. Sirb is willing to amend his motion to add a condition that the applicant must dedicate up to four spaces on the lot on the other side of Walnut Street for employee parking. Mr. Cunningham stated that was acceptable.

Mr. Sirb amended his motion to include the dedication of four parking spaces on the Walnut Street parking site for employee parking. Mr. Cunningham noted that the address is 4104 Walnut Street. Mr. Dowling seconded the amended motion. Mr. Turner called for a roll call vote: Mr. Fisher, aye; Mr. Dowling, aye; Mr. Sirb, aye; and Mr. Freeburn, aye.

The hearing ended at 7:47 p.m.

Submitted by:


Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
APPLICATION OF : TOWNSHIP ZONING HEARING BOARD
DALE A. AUER : DAUPHIN COUNTY, PENNSYLVANIA
: DOCKET NO. 1314

DECISION GRANTING VARIANCES

The applicant seeks variances in connection with a proposed addition to an existing commercial building and from parking regulations. A hearing on the application was held on June 28, 2012.

Facts

1. The applicant and owner of the property is Dale A. Auer of 7447 Moyer Road, Harrisburg, Pennsylvania 17112. The applicant was represented at the hearing by Charles Eash and by Massimo Rizzotto, the proposed contractor.
2. The property in question is located at the northeast corner of Jonestown Road and N. Madison Street and consists of an irregularly shaped parcel. It is bounded to the east by a ramp of I-83 and to the north by Walnut Street. It is improved with a funeral home facility and related parking. The parcel is zoned Commercial, CG.
3. The applicant proposes to erect a 28 feet by 23 feet addition to the existing facility. This addition would be located on the east side of the building and would provide a chapel. The chapel is located within the footprint of an existing carport. The nearest point of the chapel would be located 23 feet from I-83.
4. The applicant further proposes to create new parking spaces on a lot owned by the applicant which is located across Walnut Street from the premises. These spaces would be designed for employee use.
5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicant and his representatives appeared to testify before the Board.

Conclusions

1. Section 307(A) of the ordinance requires a minimum front yard setback of thirty feet. Although effectively a side yard, because of public street frontage on the I-83 ramp front yard setbacks apply and the proposed chapel would violate this section of the ordinance. Section 602(d) of the ordinance requires that required off-street parking be located on the same or abutting properties. The plans of the applicant would violate these sections of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of its limited lot size which severely limits the developable area. This hardship is further compounded by the fact that the property is bounded on all sides by public streets which increases the required setbacks and precludes additional property acquisition.

4. Granting the variance will not alter the essential character of the neighborhood nor will it adversely impact surrounding property values. The intrusion only affect the I-83 ramp and it mimics the existing intrusion of the covered carport.

Allowing parking on the other side of Walnut Street will similarly have no adverse impact. The street is not a through street and allowing its occasional use for parking will have no negative effect upon the neighborhood.

Decision

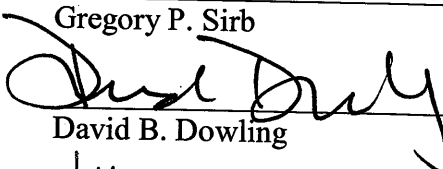
In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of an addition with a minimum front yard setback of 23 feet. Further, a variance is granted allowing the use of the property across Walnut Street for off-premises parking provided that four spaces be dedicated for employee use. In all other respects construction shall be in strict conformity with the plans and testimony submitted to the Board.

Date: 7/26/12


LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn

Gregory P. Sirb



David B. Dowling



Watson Fisher

Board members Cate and Staub abstained from participating in this matter.

LOWER PAXTON TOWNSHIP ZONING HEARING BOARD

Meeting of June 28, 2012

Members Present

Richard Freeburn
Jeffrey Staub
Sara Jane Cate
Gregory Sirb
David Dowling
Jeffrey Staub

Also in Attendance

James Turner
Dianne Moran

Docket 1315

Applicant: George Myers

Address: 1304 Sleepy Hollow Road
York, PA 17403

Property: Karl Krug
4403 Saint Andrews Way
Harrisburg, PA 17112

Interpretation: Article 307.A: Dimensional requirements in the Commercial
General Zoning District. Rear Yard Setback: The minimum rear
yard setback shall be 30 feet.
Applicant proposes an addition that will extend into the rear yard
setback

Grounds: Article 307.A of the Lower Paxton Township Zoning Ordinance
pertains to this application.

Fees Paid: May 31, 2012

Property Posted: June 19, 2012

Advertisement: Appeared in The Paxton Herald on June 13 & 20, 2012.

The hearing began at 8:53 p.m.

Mr. Freeburn swore in the following: Antoinette Myers and George Myers, 1304 Sleepy Hollow Road, York, PA. Ms. Myers noted that she is the wife of George Myers. Mr. Myers explained that he was very hard of hearing. It was noted that Ms. Moran was under oath from the previous testimony.

Mr. Freeburn noted that it was customary to enter the application and site plans as Township exhibits, and questioned the applicant if he had any objections. Mr. Myers answered that he did not.

Ms. Dianne Moran advised that the appropriate fees were paid on May 31, 2012. The proper advertisements appeared in The Paxton Herald on June 13th and June 20th, 2012. The hearing notices were posed on June 19, 2012

Ms. Moran noted that this variance is for Article 307.A: Dimensional requirements in the Commercial General Zoning District. Rear Yard Setback: The minimum rear yard setback shall be 30 feet. She noted that the applicant proposes an addition that will extend into the rear yard setback

Mr. Freeburn questioned Mr. Myers what he plans to do and why should the application be granted. Mr. Myers answered that unfortunately the work has been completed. He noted when he started the job he did not know he needed a permit. He explained that he replaced the existing deck with a roof over it.

Mr. Sirb questioned if the deck was already in the encroachment. Mr. Myers answered that there was an existing deck. Mr. Sirb questioned if he added on to the deck. Mr. Myers answered no, he replaced it. Ms. Moran explained that he enclosed the deck into a room. Mr. Myers provided pictures for the Zoning Hearing Board.

Mr. Sirb questioned Ms. Moran if the deck that was already there had encroached three feet into the setback. Ms. Moran answered that an uncovered deck is permitted to extend into the rear yard setback up to 15 feet. Mr. Freeburn noted that it must meet a height requirement. Ms. Moran answered yes. Mr. Sirb noted when he enclosed it.... Ms. Moran noted that it became living space and needed to meet the building setback requirements.

Mr. Freeburn noted that once Mr. Myers determined to close the deck that is when he needed the variance.

Mr. Sirb questioned if the enclosed part was just for the old deck. Mr. Myers explained that the existing deck already encroached the setback. He suggested that the one part was eight feet into the setback. Mr. Sirb noted that the picture provided by Mr. Myers reflects that he enclosed the deck. Mr. Sirb requested Mr. Myers to show what part of the building is encroaching the setback. Mr. Freeburn noted that the Board members are looking at a picture that depicts a freshly constructed deck and you can see from the picture there is a fireplace in the left hand corner and the deck goes along the face of the fireplace. He noted that he is looking at a second photograph that depicts the enclosed deck but you can see that it sticks out from the fireplace about four feet further into the yard from where the fire place is. He noted that is the part that is encroaching into the setback. Mr. Freeburn noted that another picture shows a partially constructed deck where Mr. Myers tore off the floorboards, and because that portion of the deck stuck out a little further, maybe another foot, the encroachment is six feet instead of three feet. He noted that the deck was not covered and no permit would have been required to

replace the deck since it was not covered. Mr. Moran noted that was correct.

Mr. Freeburn noted that whether the deck was encroaching after he redid is not the issue, but once he covered the deck that was when he needed the permit.

Mr. Staub questioned how this came to the attention of the Township. Ms. Moran answered that she does not know, however, when she went to speak to Mr. Poluka (Building Inspector) today but he was not available. She noted that she did not know if the Township received a complaint and she asked Mr. Myers if he knew how Mr. Poluka came to speak to him about this issue. Mr. Myers noted that Mr. Poluka stopped and he said the setback was improper. He noted as far as the progression for the work, he did not say stop or anything else, just that there was a need for a variance for a setback.

Mr. Freeburn questioned Mr. Myers if he lives at this residence. Mr. Myers answered that he represents the owner as he is the contractor living in York, Pennsylvania.

Mr. Sirb noted that the record should reflect that Mr. Krug the owner is not present at the meeting. Mr. Myers noted that Mr. Krug volunteered to come but he checked with Ms. Moran and was told that his presence was not necessary.

Mr. Freeburn questioned if there is electric lighting in the enclosed deck. Mr. Myers answered yes. He questioned if it required any permits from Mr. Poluka. Ms. Moran answered that Mr. Myers has now applied for a building permit. Mr. Myers answered yes. Ms. Moran questioned if Mr. Myers would follow through with the building permit after this evening. Mr. Myers answered yes.

Mr. Freeburn noted that all the electric will be checked to ensure that everything is up to code.

Mr. Dowling questioned Mr. Myers if he was a licensed contractor. Mr. Myers answered that he was not. He questioned how he came to build the addition. Mr. Myers noted that he has done work in the past for Mr. Krug, at different properties that he has owned, and Mr. Krug hired him to do this work. He noted, personally, getting a license, is another license to rip you off.

Mr. Dowling questioned how long Mr. Myers has been building additions to homes or building homes. Mr. Myers answered, off an on for 15 to 20 years. Mr. Dowling questioned when he has not gotten a building permit for a project this size. Mr. Myers answered quite a few times, not because he didn't get it, but because the Townships did not require one. He noted that he was tearing a deck off, and putting a roof on and it was his mistake and he did it based on past experience. Mr. Dowling questioned Mr. Myers if he had built in the Township before. Mr. Myers answered no. Mr. Dowling questioned Mr. Myers if there are other townships that he built in that do not require a permit for a project this size. Mr. Myers answered yes. Mr. Dowling questioned which ones. Mr. Myers answered Spring Garden Township. Mr. Dowling questioned what you would need a building permit for in that Township. Mr. Myers answered for putting a new roof on. Mr. Dowling noted if you put on a new roof you need a permit, but if

you build a new structure and put a roof on you don't need one. Mr. Myers answered yes, noting that he figured that he didn't need one and it didn't work out.

Mr. Freeburn noted if Mr. Myers would have applied for a variance for this construction what would the Board have done. He noted that is where he is at on this item, noting that he is not here to punish Mr. Myers or to make an example out of him for not having gone to the Township to get a permit, and not coming to the Zoning Hearing Board for a variance in the first place. He noted that if he came to the Zoning Hearing Board with this application for a variance before he built it would it have been granted. He noted that there is a 27 foot setback versus the required 30 foot setback, and that Mr. Myers is asking for a four foot setback, one foot of which is for the roof overhang.

Mr. Myers explained that he purchased a copy of the plot plan, measured off the plot plan noting that the fence that was erected that is in the picture is three feet off the property line. He further stated he measured from the porch that he built to the fence which is 26 feet, plus three feet for the fence, so he reasoned that he needed three to four feet for the variance. Mr. Freeburn questioned when he measured from the deck, did he measure from the edge of the fascia on the deck or the roof overhang. Mr. Myers answered that he measured from the porch, not the fascia on the roof.

Mr. Freeburn questioned if the variance would be for the distance from the roof overhang or the distance from the deck. Ms. Moran answered that it would be from the building.

Mr. Staub noted if it is 27 feet from the building to the fence and the fence is three feet from the property line that is 30 feet and there is no encroachment. Mr. Myers noted that it is 24 feet from the building to the fence. Mr. Freeburn noted the witness is showing from the edge of the deck to the white fence is 24.5 feet in addition to another three feet from the fence to the property line. Mr. Staub noted that the encroachment is 2.5 feet.

Mr. Freeburn questioned if anyone in the audience wished to be heard relative to the application. Mr. Turner noted that a letter was submitted to the Township by a neighboring property owner, Jan Fletcher. Mr. Freeburn noted that he read the letter carefully and he has considered the comments contained in the letter. He noted that the resident raised an important issue regarding a precedence that could be created if the Township was lax on enforcement. He explained that he went to a Rotary Club breakfast the other morning and the Chief of Police from Susquehanna Township spoke noting that the police can't be everywhere and obviously this resident is acting as a police person. He suggested that he does not have a great concern that people will get away with something in this neighborhood as the residents are concerned about what is going on in their neighborhood.

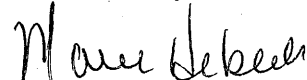
Mr. Freeburn noted that hearing no further testimony by the applicant, board members, or the audience, the board has 45 days to render a decision relative to this application.

Mr. Cate made a motion to approve Docket #1315. Mr. Freeburn seconded the motion. Mr. Turner conducted the following roll-call vote: Mr. Staub, aye; Mr. Dowling, - aye; Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Freeburn, aye. Mr. Turner noted that the motion carried.

Mr. Sirb told Mr. Myers that this is a lesson well learned. Mr. Freeburn noted that whenever he build anywhere, he should check with the local township first.

The hearing ended at 9:12 p.m.

Submitted by:


Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
GEORGE MYERS on behalf of : DOCKET NO. 1315
KARL KRUG

DECISION GRANTING VARIANCE

The applicant seeks a variance from rear yard setback requirements in connection with a proposed screened in porch. A hearing on the application was held on June 28, 2012.

Facts

1. The applicant is George Myers of 1304 Sleepy Hollow Road, York, Pennsylvania 17403, the contractor for the property owner, Karl Krug, of 4403 St. Andrews Way, Harrisburg, Pennsylvania 17112.
2. The property in question is located on the west side of St. Andrews Way and consists of an irregularly shaped lot improved with a single family dwelling known as 4403 St. Andrews Way.
3. The applicant has substantially erected a screened in porch to the rear of the exiting dwelling. Construction was undertaken without applying for a building permit. The porch extends to within 27 feet 6 inches of the rear yard property line.
4. The new porch was erected as a replacement to an existing deck, although it extends four feet beyond the previous deck. Construction of the porch is in a similar style and materials as the existing house.
5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicant appeared to testify before the Board. A neighboring property owner submitted a letter to the Board opposing the variance on the ground that the variance request came after construction started.

Conclusions

1. Section 307(A) of the ordinance requires a rear yard setback of thirty (30) feet. The porch as constructed violates this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of its shallow dimensions which make virtually any addition to the property impractical without variance.

4. Granting the variance will not alter the essential character of the neighborhood nor will it adversely impact surrounding property values. The intrusion into the setback is modest and is screened by the house from public view. Further, it largely follows the dimensions of the previous deck.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the construction of a screened in porch as currently erected.

Date: 7/26/12

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn

SJ Cate

Sara Jane Cate

Gregory P. Sirb

David B. Dowling

David B. Dowling

Jeffrey W. Staub

LOWER PAXTON TOWNSHIP ZONING HEARING BOARD

Meeting of June 28, 2012

Members Present

Richard Freeburn
Jeffrey Staub- Recluse
Sara Jane Cate
Gregory Sirb
David Dowling
Jeffrey Staub
Watson Fisher

Also in Attendance

James Turner
Dianne Moran

Docket 1316

Applicant: BRM Associates, Inc. d/b/a Hornung's Hardware

Address: 5137 Ridgeview Drive
Harrisburg, PA 17112

Property: 6005 Blue Bird Avenue
Harrisburg, PA 17112

Interpretation: Article 307.1: The maximum percent of impervious coverage is 75%. The applicant proposes a total of 78.78% of impervious coverage.
Article 603.H.2: Any new or expanded paved area serving a principal non-residential use shall be separated from a public street by a planting strip. The planting strip shall have a minimum width of 30 feet and be maintained in grass or other attractive vegetative groundcover. At least 20 feet of the planting strip shall be outside of the existing street right-of-way. An encroachment of approximately 72 square feet is proposed in the small triangular shaped off-street parking area along Blue Bird Avenue.
Article 803.D: A minimum 30 feet wide buffer yard with plant screening shall be required along the rear and side lot lines of any lot used principally for principal non-residential purposes that are contiguous to a lot occupied by an existing principal dwelling or an undeveloped residentially zoned lot. The lot on the western side of the property currently contains a residence. A variance is requested for the encroachment of 12 new spaces within the 30 foot buffer yard on the eastern side of the property.

Grounds: Article 307.A, 603.H.2; and 803.D of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: Ms. Moran noted that the fees were paid.

Property Posted: June 19, 2012.

Advertisement: Appeared in The Paxton Herald on June 13 & 20, 2012.

The hearing began at 7 p.m.

Mr. Jeffrey Staub explained that he needed to recluse himself from the hearing as he has a business relationship with the applicant. Mr. Freeburn noted that Mr. Staub was recluse from hearing this docket. Mr. Staub noted that he would have to recluse himself from Docket 1314 as he had a previous business relationship with that applicant. Mr. Freeburn recognized that Mr. Staub would be recluse from Docket 1314. Mr. Turner requested Mr. Watson Fisher, an alternate for the Zoning Hearing Board, to please come to the dais.

Mr. Freeburn swore in William Hornung as the applicant.

Mr. Freeburn noted that it was customary to enter the application and site plans as Township exhibits, and questioned the applicant if he had any objections. Mr. Hornung answered that he did not.

Mr. Freeburn sworn in Dianne Moran, the Planning and Zoning Officer.

Ms. Moran advised that the appropriate fees were paid. The proper advertisements appeared in The Paxton Herald on June 13 & 20, 2012. The hearing notices were posed on June 19, 2012.

Ms. Moran advised that Article 307.1: The maximum percent of impervious coverage is 75%. The applicant proposes a total of 78.78% of impervious coverage. Article 603.H.2: Any new or expanded paved area serving a principal non-residential use shall be separated from a public street by a planting strip. The planting strip shall have a minimum width of 30 feet and be maintained in grass or other attractive vegetative groundcover. At least 20 feet of the planting strip shall be outside of the existing street right-of-way. An encroachment of approximately 72 square feet is proposed in the small triangular shaped off-street parking area along Blue Bird Avenue. Article 803.D: A minimum 30 feet wide buffer yard with plant screening shall be required along the rear and side lot lines of any lot used principally for principal non-residential purposes that are contiguous to a lot occupied by an existing principal dwelling or an undeveloped residentially zoned lot. The lot on the western side of the property currently contains a residence. A variance is requested for the encroachment of 12 new spaces within the 30 foot buffer yard on the eastern side of the property. Article 1153.07 (a) in a C-1 District, no building shall be located closer than 30' to the front property line; 1153.07 (c), a rear yard of not less than 40' shall be maintained. The applicant is proposing to construct a one-story office building, which will encroach into the front and rear building setbacks. Lastly, Article, 1153.08, parking areas shall not intrude upon minimum landscape requirements; the applicant is proposing parking within the 30' front landscape.

Mr. Hornung explained that he is attempting to do several things for this plan. He noted that the intersection of Blue Bird Avenue, Lockwillow Avenue and Mountain Road has such a high accident rate, and the light sequence has been changed over time. He noted as a result, the traffic commonly backs up on Blue Bird Avenue blocking the lower driveway to his business, making it very difficult for traffic to exit his property. He proposes to install a second driveway further east along Blue Bird Avenue, to allow his patrons to enter the property at the lower driveway and exiting the property from the newly proposed driveway.

Mr. Hornung noted that he is below the amount of parking that is needed and during his busy summer months he runs out of parking spaces and the traffic must park along Blue Bird Avenue. He explained that he intends to install underground pipes for infiltration for the area to prevent water runoff. He noted that his property is bordered on two sides by PENNDOT, as it has an impact on his business, noting that a larger parking lot would be much better for his business. He noted that his son owns the house and property adjacent to his vacant lot, and he has first right of refusal to buy the property back in the event he wishes to sell the home. He noted that his son is saving up to purchase a larger home.

Mr. Hornung noted when his trucks enter the property to unload, they come into the lower parking area and many times there is not enough room for the trucks to get in and out. He noted that with the additional driveway, large tractor trailers could back into the parking lot and the loading dock area and they will not interfere with the rental area of his business. He noted that currently the tractor trailers park in the street and they have to forklift in the supplies. He noted that this is the primary reason for the proposed changes. He noted that he needs to repair his parking lot and with these changes he plans to put in additional drainage to prevent the current ice build up that he is experiencing in the winter months.

Mr. Dowling question if two additions are proposed to the building. Mr. Hornung answered that the additions will not be built at this time due to financial constraints, but he may be able to build them in three years from now.

Mr. Dowling questioned if the current plans include the demolition of the small house and taking the lot on the eastern end... Mr. Hornung answered that the building is in very bad shape and he plans to take it down as soon as possible.

Mr. Dowling noted that for the setback to the eastern edge of the property, it looks like the parking to the north touches into the setback line and angles away a few feet as it proceeds south. Mr. Hornung agreed. Mr. Dowling noted that a retaining wall is proposed for one part of it and some type of fence along the border. He requested Mr. Hornung to describe what the fence would be along the eastern edge of the property. Mr. Hornung answered that he plans to install a solid vinyl fence that will be roughly six feet in height, starting about 30 to 40 feet from Blue Bird Avenue.

Mr. Freeburn questioned how high the fence would be from the parking lot. Mr. Hornung noted that the parking lot would be below the land at that point so it could be anywhere from eight feet off the parking lot on the southern end since there is a four foot wall, and at the other end it would be six feet where it starts. Mr. Freeburn questioned if the fence would be on top of

the retaining walls. Mr. Hornung answered yes. Mr. Freeburn questioned how high the retaining wall is. Mr. Hornung answered that it goes as high as four feet. Mr. Freeburn noted that it would provide for a ten foot separation of area. Mr. Hornung questioned if that was okay. Mr. Freeburn answered that he would prefer that. He suggested that it would be more effective as a screen.

Mr. Dowling noted that he was curious to know the height of the fence and that the height of the fence off the parking lot will vary depending on where it is due to the slope of the land. He noted that the parking variance includes the de minimis variance along Blue Bird Avenue and the significant lot for the parking along the eastern edge. He noted that it is Mr. Hornung's testimony that the fence would be along the edge and that the property at the side of the fence is owned by his son, with Mr. Hornung having the right of first refusal. Mr. Hornung answered that is correct.

Mr. Freeburn questioned if the property on which the two-story framed dwelling is situated will be razed and if it is owned by Mr. Hornung's son. Mr. Hornung answered no as there are two properties, one owned by him and the other owned by his son.

Mr. Sirb noted that 12 new spaces are shown opposite the lower area where the rental area is located, and he questioned if that will meet the parking requirements. Mr. Hornung answered yes, noting that currently he has 69 parking spaces, with the area next to Mountain Road being an open area, with outdoor plants. He noted that the addition for the eastern end of the building will not be built at this time. He noted that he will end up with 98 parking spaces and with that small addition, it would put him at the actual exact number of parking spaces that is needed to make the entire plan work. Mr. Sirb questioned if the addition would require a total of 98 spaces for the plan. Mr. Hornung answered yes. He noted if he does not get the variance for the additional parking he would have to come back for a variance for the parking since he would not have enough parking for the addition.

Mr. Sirb questioned if the eastern side would become the loading and unloading zone. Mr. Hornung answered that was correct. Mr. Sirb questioned if the trucks would use the upper driveway entrance. Mr. Hornung answered yes.

Ms. Cate questioned if the trucks currently unload at the lower driveway. Mr. Hornung answered yes, but one truck comes at 7 a.m. and it is easy for that truck to access the parking lot. He noted that he is able to back into the area where the six diagonal parking spaces are located. He noted during the day if a truck is to be unloaded, he must do it from Blue Ribbon Avenue. He noted that there is not enough room for the truck to park and it is a dangerous situation to unload the truck from the street. He noted that it would be much easier to back into the upper parking lot to unload the trucks.

Ms. Cate noted that some of the rental equipment is quite large. She questioned how that equipment would enter the parking lot. Mr. Hornung noted that they are loaded and unloaded in the western end of the parking lot. He noted that he might move that operation to the upper end noting that he struggles to find areas to park that equipment. He stated that it would free up some parking spaces for his customers.

Mr. Freeburn noted that the additional parking spaces on the eastern end are shaded in pink and show the additional parking spaces. Mr. Hornung noted that 14 spaces will be added. Mr. Freeburn noted that the parking spaces on the eastern edge abutting the property that is owned by his son appear to touch the property line. Mr. Hornung noted that is correct. Mr. Freeburn noted that there is no buffer in that area. Mr. Hornung noted that he has his son's permission to do this.

Mr. Freeburn questioned Ms. Moran if the Township Engineer reviewed the plan for the issue of impervious coverage. Ms. Moran answered yes and he has reviewed the plan several times as well as Mr. Hornung's engineer and staff. She noted that they all brainstormed to come up with the best possible solution.

Mr. Freeburn questioned if they have any objection to the decrease in the amount of pervious coverage that would be created by this plan. Ms. Moran answered no, noting that HRG, Inc. has no concerns.

Mr. Sirb questioned if the lower level driveway would be an in only. Mr. Hornung answered yes. Mr. Sirb questioned if the upper driveway would be an exit only. Mr. Hornung answered yes except when large tractor trailers are making deliveries.

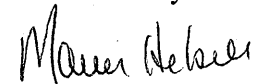
Mr. Freeburn questioned if the property currently owned by Mr. Hornung's son is zoned Commercial General. Ms. Moran answered yes. Mr. Freeburn noted that the buffers are needed due to the location of the residences. Ms. Moran answered yes. Mr. Freeburn questioned if it was not a residential use, but commercial use... Ms. Moran noted that no buffer would be required. Mr. Freeburn questioned if it would be okay for the parking to touch the property line. Ms. Moran answered that it would.

Mr. Freeburn questioned if anyone in the audience wished to be heard relative to this application. He noted seeing no response from the audience or the Zoning Hearing Board members; the Board has 45 days to make a decision.

Mr. Sirb made a motion to approve the variance for Docket 1316. He noted that the parking that is located on the property line is owned by the son of the applicant is a de minimus variance. Ms. Cate seconded the motion. Mr. Freeburn noted that the Township Engineer had no objection to the plan in regards to the impervious coverage and if the abutting property were in a Commercial General zone, it would be permitted. Mr. Turner called for a roll-call vote: Mr. Fisher, aye; Mr. Dowling, aye; Mr. Sirb, aye; Ms. Cate - aye; Mr. Freeburn - aye. Mr. Turner noted that the motion carried.

The hearing ended at 7:25 p.m.

Submitted by:


Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
APPLICATION OF : TOWNSHIP ZONING HEARING BOARD
: DAUPHIN COUNTY, PENNSYLVANIA
:
BRM ASSOCIATES : DOCKET NO. 1316

DECISION GRANTING VARIANCES

The applicant seeks several variances in connection with a proposed parking lot expansion and realignment. A hearing on the application was held on June 28, 2012.

Facts

1. The applicant and owner of the property is BRM Associates, Inc. of 5137 Ridgeview Drive, Harrisburg, Pennsylvania 17112. The applicant was represented at the hearing by William Hornung, principal.
2. The property in question consists of a roughly rectangular parcel located on the southeast corner of North Mountain Road and Blue Bird Avenue. Total lot area is approximately two acres. In addition the applicant is the owner of 6033 Blue Bird Avenue, the adjoining parcel to the east which is improved with a single family dwelling.
3. The parcel at 6005 Blue Bird Avenue is improved with a 20,000 square feet commercial building with related parking. The parcels are zoned Commercial Genera, CG.
4. The applicant proposes to demolish the building at 6033 Blue Bird and to expand and reconfigure the hardware store parking lot. The entrance driveway would be located to the east and a new driveway would be erected at the east end of the lot. In addition, a new parking area would be created on the east end of the lot along with a loading/unloading zone. The parking area would extend to the eastern property line. The adjoining property is owned by the applicant's family and the applicant has a purchase option on it. A six feet tall fence would be erected along the property line. Due to elevation difference between the properties this wall would be elevated an additional one to four feet above the parking lot.
5. Following the construction impervious coverage will be 78.8%. In order to handle stormwater runoff generated by the new paved areas the applicant proposes underground

pipng to allow infiltration. The plans have been reviewed and approved by the Township Engineer.

6. Notice of the hearing was posted and advertisement made as required by the ordinance.

7. No one other than the applicant appeared to testify before the Board.

Conclusions

1. Section 603.H.2 of the ordinance prohibits parking within the front yard planting strip. Section 803.D.1 prohibits parking within the required 30 feet buffer yard between commercial and residential uses. Section 307.A limits impervious coverage to 75%. The proposed improvements would violate these sections of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of its limited lot area. It is further burdened by street frontage on three of its four sides which limit the available areas for expansion. The Board finds that the expanded parking areas are reasonably necessary for the applicant's business and it is impossible to expand without relief from setbacks.

4. Granting the variance will not alter the essential character of the neighborhood nor will it adversely impact surrounding property values. The access and parking on the lot as presently existing constitutes a safety hazard in that tractor trailers have difficulty making deliveries resulting in unsafe stops on the public street. Further, traffic backs up on Blue Bird Avenue beyond the existing entrance, blocking the business. Reconfiguring the property will

allow safer access to the site. The setback and buffering intrusions, while significant, only impact a property which is already within the control of the applicant.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variances requested should be and are hereby granted allowing the creation of a parking lot with a side yard setback and buffer area as set forth on plan of BRM Associates dated May 31, 2012. In all respects construction shall be in strict accordance with the plans and testimony presented to the Board.

Date: 7/26/12

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn


Mary Jane Cate

Gregory P. Sirb


David B. Dowling

Watson Fisher

Board member Staub abstained from participating in this matter.